

**AUG 13 2003**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON  
U.S. COURT OF APPEALS**

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

PATRICIA RODRIGUEZ,

Defendant-Appellant.

No. 02-50550

D. C. No. CR-02-00740-TJW

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Thomas J. Whelan, District Judge, Presiding

Submitted July 17, 2003\*\*  
Pasadena, California

Before: KLEINFELD and WARDLAW, Circuit Judges, and POGUE, Judge.\*\*\*

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

\*\*\* Honorable Donald C. Pogue, United States Court of International Trade Judge, sitting by designation.

Appellant Patricia Rodriguez challenges the district court's denial of her motion to dismiss the indictment against her, arguing that the grand jury instructions improperly limited the scope of the grand jury's inquiry in violation of the Fifth Amendment. Appellant's claim is foreclosed by this Court's decision in United States v. Marcucci, 299 F.3d 1156, 1159-60 (9th Cir. 2002), cert. denied, 123 S. Ct. 1600 (2003). See also United States v. Cedano-Arellano, 332 F.3d 568, 573 (9th Cir. 2003). We therefore affirm the district court's denial of the motion.

**AFFIRMED.**